

225 CMR 14.00 - RENEWABLE ENERGY PORTFOLIO STANDARD

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14.01: Authority.

225 CMR 14.00 is promulgated pursuant to M.G.L. c.25A, § 11F.

14.02: Definitions.

Aggregation. A group of one or more Off-Grid Generation Units or behind the meter Generation Units that receives a single Statement of Qualification from the Division under criteria and procedures set forth at 225 CMR 14.05 (6).

Commercial Operation Date. The date that a Generation Unit first coordinates, schedules and produces power for sale within the ISO-NE Control Area or within an adjacent Control area, having fulfilled ISO-NE metering requirements and been considered an active market participant by ISO-NE, which requires valid market database registration and activation, or, for a Generation Unit in an adjacent Control Area, has met equivalent requirements. In the case of a Generation Unit that has been moved from another location within the ISO-NE Control Area or within an adjacent Control Area, the date that such Generation Unit first produced electrical energy for sale at its original location. In the case of a Generation Unit that is connected to the End-Use Customer's side of the electric meter or produces Off-Grid Generation, the date that such Generation Unit first produces electrical energy.

Compliance Filing. A document filed annually by a Retail Electricity Supplier with the Division documenting compliance with 225 CMR 14.00, consistent with the format set forth in the Guidelines and submitted no later than the first day of July of the subsequent Compliance Year.

Compliance Year. A calendar year beginning January 1 and ending December 31, for which a Retail Electricity Supplier must demonstrate that it has met the requirements of 225 CMR 14.07 and 14.08.

Composite Fuel. A fuel that is fabricated or blended from both Eligible New Renewable Fuel(s) and ineligible fuel(s).

Control Area. A geographic region in which a common generation control system is used to maintain scheduled interchange of electrical energy within and without the region.

Division. The Massachusetts Division of Energy Resources, established by M.G.L. c. 25A.

Eligible Biomass Fuel. Fuel sources including brush, stumps, lumber ends and trimmings, wood pallets, bark, wood chips, shavings, slash and other clean wood that are not mixed with other solid wastes; agricultural waste, animal waste, food material, and vegetative material as those terms are defined, or may subsequently be defined, by the Massachusetts Department of Environmental Protection; energy crops; biogas; organic refuse-derived fuel; construction and demolition (C&D) wood; or neat biodiesel and other neat liquid fuels that are derived from such fuel sources.

Eligible New Renewable Fuel. An Eligible Biomass Fuel, landfill or anaerobic digester methane gas, or hydrogen derived from such fuels or from water using the electrical output of a Renewable Generation Unit, but not hydrogen derived using New Renewable Generation and not hydrogen derived directly or indirectly from ineligible fuels.

End-Use Customer. A person or entity in Massachusetts that purchases electrical energy at retail from a Retail Electricity Supplier, except that a Generation Unit, taking station service at wholesale from ISO-NE or self-supplying from its other generating stations, shall not be considered an End-use Customer.

Generation Attribute. A non-price characteristic of the electrical energy output of a Generation Unit including, but not limited to, the Unit's fuel type, emissions, vintage and RPS eligibility.

Generation Unit. A facility that converts a fuel or an energy resource into electrical energy.

GIS Certificate. An electronic record produced by the NEPOOL GIS that identifies relevant Generation Attributes of each MWh accounted for in the NEPOOL GIS.

Guidelines. A set of clarifications, interpretations, and procedures, including forms, as developed by the Division to assist in compliance with the requirements of 225 CMR 14.00. The Division may issue revised Guidelines from time to time. Each Guideline is effective on its date of issuance or on such date as is specified therein, except as otherwise provided in 225 CMR 14.00.

Historical Generation Rate. The average annual electrical production from a Generation Unit that meets the requirements of 225 CMR 14.05 (1) (a), stated in megawatt-hours (MWhs), for the three calendar years 1995 through 1997, or for the first 36 months after the Commercial Operation Date if that date is after January 1, 1995.

ISO-NE. ISO New England Inc., the regional transmission organization for most of New England, which is authorized by the Federal Energy Regulatory Commission (FERC) to exercise for the New England Control Area the functions required pursuant to the FERC's Order No. 2000 and the FERC's corresponding regulations.

NEPOOL GIS. The Generation Information System, which includes a generation information database and certificate system, operated by the New England Power Pool (NEPOOL), its designee or successor entity, that accounts for Generation Attributes of electrical energy consumed within, imported into, or exported from NEPOOL.

New Renewable Generation. The electrical energy output of a New Renewable Generation Unit or that portion of the electrical energy output of a Generation Unit that qualifies under a Vintage Waiver, pursuant to 225 CMR 14.05 (2), or under a Co-firing and Composite Fuel Waiver, pursuant to 225 CMR 14.05 (3).

New Renewable Generation Attribute. The Generation Attribute of the electrical energy output of a specific Generation Unit that derives from the Unit's production of New Renewable Generation.

New Renewable Generation Unit. A Generation Unit or Aggregation that has received a Statement of Qualification from the Division and that has a Commercial Operation date after December 31, 1997.

Off-Grid Generation. The electrical energy produced by a Generation Unit that is not connected to a utility transmission or distribution system.

Operator. Any person or entity who has charge or control of a Generation Unit subject to 225 CMR 14.00, including without limitation an agent or lessee of the Owner, or an independent contractor.

Owner. Any person or entity who, alone or in conjunction with others, has legal ownership, a leasehold interest, or effective control over the real property or

property interest upon which a Generation Unit is located, or the airspace above said real property. For the purposes of this definition, "Owner" does not mean a person or entity holding legal title or security interest solely for the purpose of providing financing.

Renewable Generation. The electrical energy output of a Renewable Generation Unit.

Renewable Generation Attribute. The Generation Attribute of the electrical energy output of a specific Generation Unit that derives from the Unit's production of Renewable Generation.

Renewable Generation Unit. A Generation Unit that uses any of the fuels, energy resources or technologies set forth in 225 CMR 14.05 (1) (a); that uses flowing water as the primary energy resource, with or without a dam structure or other means of regulating water flow, and that is not located at a facility that uses mechanical or electrical energy to pump water into a storage facility (i.e., a so-called "pumped-storage facility"); or that uses waste-to-energy that is a component of conventional municipal solid waste plant technology in commercial use.

Retail Electricity Product. An electrical energy offering that is distinguished by its Generation Attributes and that is offered for sale by a Retail Electricity Supplier to End-Use Customers.

Retail Electricity Supplier. A person or entity that sells electrical energy to End-Use Customers in Massachusetts, including but not limited to electric utility distribution companies supplying basic service or any successor service to End-Use Customers. A Municipal Lighting Plant shall be considered a Retail Electricity Supplier; however, it shall be exempt from the obligations of a Retail Electricity Supplier under 225 CMR 14.00 so long as and insofar as it is exempt from the requirements to allow competitive choice of generation supply pursuant to M.G.L. c. 164 § 47A.

RPS Qualified Generation Unit. A Generation Unit or Aggregation that has received a Statement of Qualification from the Division.

Statement of Qualification. A written document from the Division that qualifies a Generation Unit or Aggregation as a New Renewable Generation Unit, or that qualifies a portion of the annual electrical energy output of a Generation Unit or Aggregation as New Renewable Generation.

Valid Air Permit. Within the United States, a current and effective authorization, license, certificate, or like approval to construct and/or operate a source of air pollution, issued or required by the regulatory agency designated in the applicable State Implementation Plan to issue permits under the Clean Air Act, 42 U.S.C. §§

7401, et seq., as amended. In jurisdictions outside of the United States, it shall be a document demonstrating an equivalent authorization.

Vintage Generation Unit. A Generation Unit that meets the requirements of 225 CMR 14.05 (1) and that has a Commercial Operation Date of December 31, 1997, or earlier.

Vintage Generation. The electrical energy output of a Vintage Generation Unit during the period of the Unit's Historical Generation Rate.

14.03: Administration.

225 CMR 14.00 shall be administered by the Division.

14.04: Applicability.

225 CMR 14.00 applies to Retail Electricity Suppliers and to the Owners, Operators or authorized agents of New Renewable Generation Units.

14.05: Eligibility Criteria for New Renewable Generation Units.

(1) Eligibility Criteria. A Generation Unit may qualify as a New Renewable Generation Unit subject to the limitations set forth herein.

(a) Fuels, Energy Resources and Technologies. The Generation Unit shall use one or more of the fuels, energy resources and/or technologies listed below.

1. Solar photovoltaic or solar thermal electric energy.
2. Wind energy.
3. Ocean thermal, wave or tidal energy.
4. Fuel cells using an Eligible New Renewable Fuel.
5. Landfill methane gas or anaerobic digester gas, provided that such gas is collected and conveyed directly to the Generation Unit without use of facilities used as common carriers of natural gas.
6. Low-emission, advanced biomass power conversion technologies using an Eligible Biomass Fuel. A Generation Unit may qualify as an RPS Qualified Generation Unit, provided it uses an Eligible Biomass Fuel, subject to the limitations set forth herein.
 - a. The Division shall set forth in Guidelines low-emission eligibility criteria and eligibility criteria for

advanced biomass power conversion technologies; such criteria are effective on the issuance date of such Guidelines. The Division may issue revised Guidelines from time to time; any eligibility criteria in the revised Guidelines shall be effective twenty-four months from their date of issuance.

b. A Generation Unit shall be found to utilize an advanced biomass power generation technology if the Division determines that the Generation Unit as designed, constructed, or retrofitted meets the eligibility criteria set forth in the Guidelines that are applicable for the date on which the Division receives the Unit's Statement of Qualification application.

c. A Generation Unit with a Commercial Operation Date after December 31, 1997, that requires an air permit, must possess a Valid Air Permit, and must demonstrate to the satisfaction of the Division that the emission rates of the Unit do not exceed limits set forth in the Guidelines that are applicable for the date on which the Division receives the Unit's Statement of Qualification application.

d. A Generation Unit with a Vintage Waiver that requires an air permit must possess a Valid Air Permit and demonstrate to the satisfaction of the Division that the emission rates of the Unit do not exceed limits set forth in the Guidelines that are applicable for the date on which the Division receives the Unit's Statement of Qualification application.

e. A Generation Unit that does not require an air permit must demonstrate to the satisfaction of the Division that its emissions are consistent with criteria set forth in the Guidelines that are applicable for the date on which the Division receives the Unit's Statement of Qualification application.

f. In the case of a Generation Unit for whose size, type, or fuel the Guidelines do not set forth applicable emission limits, the Division will determine appropriate limits in consultation with the Massachusetts Department of Environmental Protection.

(b) Commercial Operation Date. The Commercial Operation Date shall be after December 31, 1997, unless the Generation Unit receives a Vintage Waiver pursuant to 225 CMR 14.05 (2).

(c) Metering. The electrical energy output from a Generation Unit shall be verifiable by ISO-NE unless the Generation Unit is an RPS Qualified Generation Unit pursuant to the Special Provisions for a Small Generation Unit set forth in 225 CMR 14.05 (4).

(d) Location. The Generation Unit location is subject to the limitations set forth herein.

1. Metering Distributed Generation. If the Generation Unit is wired both to the electrical system on the End-Use Customer's side of a retail electric meter and to the grid side of the meter, such Unit shall be metered in a manner satisfactory to the Division to verify the electrical output of the Unit to the grid. If the Generation Unit is located outside of Massachusetts, only that portion of the electrical energy delivered to the grid can be eligible as New Renewable Generation.

2. Behind the Meter Generation. If the Generation Unit is wired only to the electrical system on the End-Use Customer's side of a retail electric meter in such a manner that it displaces all or part of the metered consumption of the End-use Customer, it must be located in Massachusetts.

3. Off-Grid Generation. If the Generation Unit produces Off-Grid Generation, such Unit must be located in Massachusetts.

4. Vintage Landfill Generation. If the Generation Unit uses landfill methane gas and is located on a parcel of land or landfill that was the site of Vintage Generation from landfill methane gas at any time during calendar years 1995 through 1997, such Unit must receive a Vintage Waiver pursuant to 225 CMR 14.05 (2).

(2) Vintage Waiver. All or a portion of the electrical energy output of a Vintage Generation Unit, a Retrofitted Biomass Generation Unit, or a Landfill Generation Unit located at the site of Vintage Landfill Generation may qualify as New Renewable Generation provided the Generation Unit meets the eligibility requirements of 225 CMR 14.05, subject to the limitations set forth herein.

(a) Vintage Generation Units. The portion of the electrical energy output of a Vintage Generation Unit that qualifies as New Renewable Generation in any Compliance Year is that portion greater than the Unit's Historical Generation Rate.

(b) Landfill Generation Units Located at the Site of Vintage Landfill Generation. The portion of the electrical energy output of a Generation Unit subject to 225 CMR 14.05 (1) (d) 4 that qualifies as New Renewable Generation in any Compliance Year is that portion greater than the aggregate Historical Generation Rate of the Vintage Landfill Generation

Unit(s) located on such parcel of land or landfill at any time during calendar years 1995 through 1997.

(c) Non-Applicability of the Vintage Waiver Provisions. A Vintage Waiver is not required, and the Vintage Waiver provisions do not apply to Generation Units described in sub-sections 1, 2, and 3 below, subject to the limitations set forth in sub-section 4 below.

1. A Generation Unit that previously generated electricity outside of the ISO-NE Control Area and outside Control Areas adjacent to the ISO-NE Control Area, and that has been relocated into one of said Control Areas after December 31, 1997.
2. A Generation Unit that did not utilize an Eligible Renewable Fuel at any time prior to January 1, 1998.
3. A Generation Unit that replaces a Generation Unit that operated on the same site prior to January 1, 1998, except as provided at 225 CMR 14.05 (2) (b).
4. If a Generation Unit described in sub-section 1, 2, or 3 above utilizes an Eligible Biomass fuel, it must demonstrate to the satisfaction of the Division that its biomass power conversion technology and emission rates meet the criteria and limits set forth in the Guidelines that are applicable for the date on which the Division receives the Unit's Statement of Qualification application.

(3) Co-Firing and Composite Fuel Waiver. All or a portion of the electrical energy output of a Generation Unit that uses an ineligible fuel in conjunction with an Eligible New Renewable Fuel, whether by co-firing such fuels or by using a Composite Fuel, may qualify as New Renewable Generation provided the Generation Unit meets the eligibility requirements of 225 CMR 14.05, subject to the limitations set forth herein.

- (a) The portion of the total electrical energy output that qualifies as New Renewable Generation in a given time period shall be equal to the ratio of the net heat content of the Eligible New Renewable Fuel consumed to the net heat content of all fuel consumed in that time period.
- (b) If using an Eligible Biomass Fuel, the entire Generation Unit must meet the requirements of low-emission, advanced biomass power conversion technologies as set forth in 225 CMR 14.05 (1) (a) 6.
- (c) The provisions of this section shall not apply to the incidental use of ineligible fuels for the purpose of cold starting a Generation Unit that otherwise exclusively uses an Eligible New Renewable Fuel.

(4) Special Provisions for a Small Generation Unit. A Generation Unit whose metered data are not provided to the ISO-NE Settlement Market System or any subsequently enacted system may qualify as an RPS Qualified Generation Unit provided the Generation Unit meets the eligibility requirements of 225 CMR 14.05, subject to the limitations set forth herein.

(a) The Generation Unit must be able to verify its electrical energy output in a manner satisfactory to the Division.

(b) The Generation Unit Owner, Operator or authorized agent must provide assurances satisfactory to the Division that the New Renewable Generation Attributes have not otherwise been, nor will be, sold, retired, claimed or represented as part of electrical energy output or sales, or used to satisfy obligations in jurisdictions other than Massachusetts.

(5) Special Provisions for a Generation Unit Located in a Control Area Adjacent to the ISO-NE Control Area. A Generation Unit located in a Control Area adjacent to the ISO-NE Control Area may qualify as a New Renewable Generation Unit provided that the Generation Unit meets the eligibility requirements of 225 CMR 14.05. The portion of the total electrical energy output that qualifies as New Renewable Generation in a given time period shall meet requirements of Rule 2.7 of the NEPOOL GIS Operating Rules, or any successor rule, as well as the following:

(a) A unit-specific bilateral contract that provides for an External Transaction, as defined in the ISO-NE Transmission, Markets & Services Tariff, Section III – Market Rule 1, or any successor tariff or rule shall be executed between the Generation Unit Owner, Operator, or authorized agent and an electrical energy purchaser located in the ISO-NE Control Area for delivery of the Unit's electrical energy to the ISO-NE Control Area. The unit-specific bilateral contract shall include associated transmission rights for delivery of the Unit's electrical energy over the ties from an adjacent Control Area to the ISO-NE Control Area.

(b) The Generation Unit Owner, Operator, or authorized agent shall provide documentation, satisfactory to the Division, that:

1. the electrical energy delivered pursuant to the unit-specific bilateral contract was settled in the ISO-NE Settlement Market System;

2. the Generation Unit produced, during each hour of the applicable month, the amount of MWhs claimed, as verified by the NEPOOL GIS administrator; if the adjacent Control Area employs a Generation Information System that is comparable to the NE-GIS, such system may be used to support such documentation;

3. the electrical energy delivered under the unit-specific bilateral contract received a North American Electric Reliability Council Tag (NERC Tag) confirming transmission from the adjacent Control Area to the ISO-NE Control Area; and
4. the New Renewable Generation Attributes have not otherwise been, nor will be, sold, retired, claimed or represented as part of electrical energy output or sales, or used to satisfy obligations in jurisdictions other than Massachusetts.

(6) Special Provisions for Aggregations. An Aggregation of one or more Off-Grid Generation Units or behind the meter Generation Units, each of which meets the requirements of 225 CMR 14.05, may receive a single Statement of Qualification and be treated as a single Qualified Renewable Generation Unit under criteria and procedures set forth in this section.

- (a) Each Generation Unit in such Aggregation must use the same fuel, energy resource and technology, as specified at 225 CMR 14.05 (1) (a).
- (b) All of the Owners, Operators or authorized agents of Generation Units within the Aggregation must enter agreements with an entity that serves as the authorized agent for the Aggregation in all dealings with the Division and with the NEPOOL GIS, and such agreement must include procedures by which the electrical energy output of each Unit shall be reported to and can be verified by the authorized agent in a manner satisfactory to the Division.
- (c) The authorized agent of the Aggregation must establish and maintain a GIS Generator's account at the NEPOOL GIS under the NEPOOL GIS Operating Rules, including all provisions for "Non-NEPOOL Generator Representatives," as that term is defined at Rule 2.1 of those Rules, or any successor rules.
- (d) The authorized agent of the Aggregation must comply with all provisions of 225 CMR 14.00 that pertain to the Owner, Operator or authorized agent of a Generation Unit.
- (e) The authorized agent of the Aggregation must provide assurances satisfactory to the Division that the New Renewable Generation Attributes associated with the electrical energy output of the Generation Units within the Aggregation have not otherwise been, nor will be, sold, retired, claimed or represented as part of electrical energy output or sales, or used to satisfy obligations in jurisdictions other than Massachusetts.

14.06: Qualification Process for New Renewable Generation.

- (1) Application for a Statement of Qualification. Application for a Statement of Qualification shall be submitted to the Division using forms provided by the

Division. Such application may be submitted by the Owner, Operator or authorized agent of the Generation Unit or Aggregation.

(2) Statement of Qualification. If the Division finds that all or a portion of the electrical energy output of a Generation Unit or of an Aggregation meets the requirements for eligibility as New Renewable Generation pursuant to 225 CMR 14.05, the Division will provide the Owner, Operator, or authorized agent of such Unit or Aggregation with a Statement of Qualification.

(a) If all or a portion of the electrical energy output of a Generation Unit qualifies as New Renewable Generation pursuant to the Vintage Waiver, Co-firing and Composite Fuel Waiver, the Special Provisions for a Small Generation Unit, the Special Provisions for a Generation Unit Located in a Control Area Adjacent to the ISO-NE Control Area, or the Special Provisions for an Aggregation, the Statement of Qualification shall so indicate and shall include applicable restrictions.

(b) If the Generation Unit or Aggregation does not meet the requirements for eligibility as an RPS Qualified Generation Unit, the Division shall provide written notice to the Owner, Operator or authorized agent of such finding, including a statement of the reasons it does not qualify.

(3) Review Procedures.

(a) The Division will act on an administratively complete application submitted pursuant to 225 CMR 14.06 (1) within 90 days from the date such application is received by the Division.

(b) The Division shall provide an opportunity for public comment on such application for a Statement of Qualification if the Generation Unit or Aggregation would:

1. use an Eligible Biomass Fuel and is not required to have a Valid Air Permit;
2. co-fire an Eligible New Renewable Fuel in a Generation Unit in conjunction with ineligible fuels;
3. use a Composite Fuel;
4. use an Eligible New Renewable Fuel in a Generation Unit that originally used ineligible fuels; or
5. use an Eligible Biomass Fuel in conjunction with a Vintage Waiver.

(c) The Division may provide an opportunity for public comment on any other application for a Statement of Qualification.

(4) RPS Effective Date. The date on which the electrical energy output of an RPS Qualified Generation Unit is first deemed by the Division to be qualified as New Renewable Generation shall be the Commercial Operation Date, except that, in the case of a biomass Unit, the RPS Effective Date shall be the later of the Commercial Operation Date or the date on which the Division determines that the Unit has commenced compliance with the low-emission conditions in its Statement of Qualification.

(5) Notification Requirements for Change in Eligibility Status. The Owner, Operator, or authorized agent of an RPS Qualified Generation Unit shall notify the Division of any changes in the technology, operation, emissions, fuel sources, energy resources, or other characteristics of the Generation Unit that would affect the eligibility of the Unit as an RPS Qualified Generation Unit. The Owner, Operator, or authorized agent shall submit the notification to the Division no later than 5 days following the end of the month during which such changes were implemented. The notice shall state the date the changes were made to the Generation Unit and describe the changes in sufficient detail to enable the Division to determine if a change in eligibility is warranted.

(6) Notification Requirements for Change in Ownership, Generation Capacity, or Contact Information. The Owner, Operator, or authorized agent of an RPS Qualified Generation Unit shall notify the Division of any changes in the ownership, generation capacity, or contact information of the Generation Unit. The Owner, Operator, or authorized agent shall submit the notification to the Division no later than five days following the end of the month during which such changes were implemented.

(7) Time Limit for Project Implementation. Any Statement of Qualification issued on or after the effective date of this section shall expire forty-eight months after the date of issue (the expiration date) unless the Commercial Operation Date of the Generation Unit or Aggregation is on or before the expiration date. The Division may, at its discretion, grant an extension of the expiration date of the Statement of Qualification upon petition by the Owner, Operator, or authorized agent of the Generation Unit or Aggregation. If a Statement of Qualification expires, the Owner, Operator or authorized agent must submit a new Statement of Qualification application, and the decision of the Division on such new application will be made in accordance with the regulations and criteria that are applicable on the date that the Division receives such new application.

(8) Time Limit for Statement of Qualification Applications for Generation Units with Existing Advisory Rulings. Any proposed Generation Unit that has received an Advisory Ruling from the Division prior to the effective date of this Section, 225 CMR 14.06 (8), must submit a completed Statement of Qualification

application no later than six months after the effective date of this Section, failing which its Advisory Ruling will expire.

(9) Suspension or Revocation of Statement of Qualification. The Division may suspend or revoke a Statement of Qualification if the Owner, Operator, or authorized agent of an RPS Qualified Generation Unit fails to comply with any provision of 225 CMR 14.00.

14.07: Renewable Energy Portfolio Standard.

(1) Minimum Standard. The total annual sales of each Retail Electricity Product sold to Massachusetts End-Use Customers by a Retail Electricity Supplier shall include a minimum percentage of electrical energy sales with New Renewable Generation Attributes, as follows:

Massachusetts Renewable Energy Portfolio Standard

**MINIMUM PERCENTAGES OF ANNUAL ELECTRICAL ENERGY SALES
WITH NEW RENEWABLE GENERATION ATTRIBUTES**

| Compliance Year | Cumulative Minimum Percentage |
|-----------------|-------------------------------|
| 2003 | 1.0 |
| 2004 | 1.5 |
| 2005 | 2.0 |
| 2006 | 2.5 |
| 2007 | 3.0 |
| 2008 | 3.5 |
| 2009 | 4.0 |

(2) Post-2009 Standards. After 2009, the Minimum Standard shall increase by one percent per Compliance Year until the Division suspends the annual increase. At no time shall the Minimum Standard decrease below the percentage in effect at the time a suspension is implemented. Following a suspension, the Division, at its discretion, may reinstitute annual one percent increases. No later than December 31, 2007, the Division shall establish the annual one percent increase, if any, in the Minimum Standard for each Compliance Year from 2010 through 2014. No later than December 31, 2007, the Division shall set the date by which the subsequent such decision shall be issued.

14.08: Compliance Procedures for Retail Electricity Suppliers.

(1) Standard Compliance. Each Retail Electricity Supplier shall be deemed to be in compliance with 225 CMR 14.00 if the information provided in the Compliance Filing submitted pursuant to 225 CMR 14.09 is true and accurate and demonstrates compliance with 225 CMR 14.07. A Retail Electricity Supplier

shall demonstrate to the satisfaction of the Division that New Renewable Generation Attributes used for compliance have not otherwise been, nor will be, sold, retired, claimed or represented as part of electrical energy output or sales, or used to satisfy obligations in jurisdictions other than Massachusetts.

(2) Banked Compliance. A Retail Electricity Supplier may use a quantity of New Renewable Generation Attributes produced in one Compliance Year for compliance in either or both of the two subsequent Compliance Years, subject to the limitations set forth herein and provided that the Retail Electricity Supplier is in compliance with 225 CMR 14.00 for all previous Compliance Years. In addition, the Retail Electricity Supplier shall demonstrate to the satisfaction of the Division that such Generation Attributes:

- (a) were in excess of the New Renewable Generation Attributes needed for compliance in the Compliance Year in which they were generated, and that such excess Attributes have not previously been used for compliance with 225 CMR 14.00;
- (b) do not exceed thirty percent of the Generation Attributes needed by the Retail Electricity Supplier for compliance in the year they were generated;
- (c) were produced by the generation of electrical energy sold to Massachusetts End-Use Customers during the Compliance Year in which they were generated; and
- (d) have not otherwise been, nor will be, sold, retired, claimed or represented as part of electrical energy output or sales, or used to satisfy obligations in jurisdictions other than Massachusetts.

(3) Alternative Compliance. A Retail Electricity Supplier may discharge its obligations under 225 CMR 14.07 (in whole or in part) for any Compliance Year by making an Alternative Compliance Payment (ACP) to the Massachusetts Technology Park Corporation, established by M.G.L. c. 40J, or other designee as determined by DOER.

(a) Procedures. A Retail Electricity Supplier shall receive Alternative Compliance Credits from the Division, subject to the following:

1. The quantity of Credits, specified in MWhs, that can be applied to its obligations under 225 CMR 14.07 shall be determined by calculating the ratio of the total of ACPs paid for the Compliance Year to the ACP Rate for that Compliance Year.
2. The ACP Rate shall be \$50 dollars per MWh for Compliance Year 2003. For each subsequent Compliance Year, the Division shall publish the ACP Rate by January 31 of the Compliance Year. The ACP Rate shall be equal to the previous

year's ACP Rate adjusted up or down according to the previous year's Consumer Price Index.

3. The Retail Electricity Supplier shall include with its Annual Compliance Filing copies of any ACP receipt(s) for ACPs made during the Compliance Year.

(b) Use of Funds. The Division shall oversee the use of ACP funds so as to maximize the commercial development of New Renewable Generation Units.

14.09: Annual Compliance Filings for Retail Electricity Suppliers.

(1) Date of Annual Compliance Filing. The Retail Electricity Supplier annually shall file a Compliance Filing with the Division no later than the first day of July of the subsequent Compliance Year.

(2) Contents of Annual Compliance Filing. For each Retail Electricity Product, the Filing shall document compliance with the provisions of 225 CMR 14.07 and 14.08 to the satisfaction of the Division and shall include, but not be limited to, the following:

(a) Total Electrical Energy Sales to End-Use Customers. Documentation of the total MWhs of electrical energy sold by the Retail Electricity Supplier to End-Use Customers in the Compliance Year. Such sales are defined herein as the total quantity of the Supplier's certificates obligation that the Supplier correctly allocated to all of the Supplier's Massachusetts retail subaccounts in the NEPOOL GIS, pursuant to Part 4 of the NEPOOL GIS Operating Rules, or any successor rules.

(b) Electricity Sales to End-Use Customers by Product. Documentation of the total MWhs of each Retail Electricity Product sold to End-Use Customers in the Compliance Year, verified by an independent third party satisfactory to the Division, consistent with the Guidelines. Such sales are defined herein as the quantity of the Supplier's certificates obligation that the Supplier correctly allocated to each of the Supplier's Massachusetts retail subaccounts at the NEPOOL GIS, pursuant to Part 4 of the NEPOOL GIS Operating Rules, or any successor rules. The Division shall keep product information confidential to the extent permitted by law.

(c) Attributes Allocated from the Compliance Year. Documentation of the total MWhs of each Retail Electricity Product sold to End-Use Customers that was New Renewable Generation produced by RPS Qualified Generation Units in the Compliance Year, as follows:

1. For electrical energy transactions included in the ISO-NE Settlement Market System, the Compliance Filings shall include

documentation from the NEPOOL GIS administrator of the Retail Electricity Supplier's ownership of GIS Certificates representing New Renewable Generation produced by RPS Qualified Generation Units during the Compliance Year.

2. For electrical energy transactions not included in the ISO-NE Settlement Market System, but for which the Retail Electricity Supplier has secured GIS Certificates from the NEPOOL GIS administrator, the Compliance Filings shall include documentation from the NEPOOL GIS administrator of the Retail Electricity Supplier's ownership of GIS Certificates representing New Renewable Generation produced by RPS Qualified Generation Units during the Compliance Year.

3. For electrical energy transactions not included in the ISO-NE Settlement Market System, and for which the Retail Electricity Supplier has not secured GIS Certificates from the NEPOOL GIS administrator, the Compliance Filing shall include documentation verified by an independent third party satisfactory to the Division, consistent with the Guidelines, including but not limited to the following:

a. the identification of each RPS Qualified Generation Unit from which New Renewable Generation Attributes were claimed by the Retail Electricity Supplier for its compliance in the Compliance Year;

b. the quantity of New Renewable Generation produced by each such Unit for each applicable month of the Compliance Year; and

c. assurances satisfactory to the Division that the New Renewable Generation Attributes have not otherwise been, nor will be, sold, retired, claimed or represented as part of electrical energy output or sales, or used to satisfy obligations in jurisdictions other than Massachusetts.

(d) Attributes Allocated from Banked Compliance. Allocation by Retail Electricity Product of any quantity of Attributes banked from one or both of the two previous years pursuant to 225 CMR 14.08 (2) that are used to demonstrate compliance in the current Compliance Year;

(f) Alternative Compliance Credits. Allocation by Retail Electricity Product of any Alternative Compliance Credits claimed pursuant to 225 CMR 14.08 (3), along with a copy of any Alternative Compliance Payment receipt(s);

(g) Attributes Banked for Future Compliance. Calculation of the quantity of New Renewable Generation Attributes, if any, that the Retail Electricity Supplier anticipates claiming for purposes of Banked Compliance in subsequent years under the Banked Compliance provisions of 225 CMR 14.08 (2); and

(h) Renewable Generation Attributes. Documentation from the NEPOOL GIS administrator of the total electrical energy sales to End-Use Customers in the Compliance Year associated with Renewable Generation Attributes.

14.10: Reporting Requirements.

(1) Certification. Any person required by 225 CMR 14.00 to submit documentation to the Division shall provide:

(a) name, title and business address;

(b) the person's authority to certify and submit the documentation to the Division; and

(c) the following certification: "I hereby certify, under the pains and penalties of perjury, that I have personally examined and am familiar with the information submitted herein and based upon my inquiry of those individuals immediately responsible for obtaining the information, I believe that the information is true, accurate, and complete. I am aware that there are significant penalties, both civil and criminal, for submitting false information, including possible fines and imprisonment."

(2) Annual Renewable Energy Resource Report. The Division will produce an annual report that summarizes information submitted to the Division by Retail Electric Suppliers in the Annual Compliance Filing submitted to the Division pursuant to 225 CMR 14.09 (1) (a) and (h).

(3) Identification of Renewable Generation Units.

(a) The Division shall inform the NEPOOL GIS administrator which Generation Units should be designated as Renewable Generation Units pursuant to 225 CMR 14.00.

(b) An Owner, Operator or authorized agent of a Generation Unit that does not participate in the NEPOOL GIS may petition the Division to have the Unit designated as a Renewable Generation Unit.

14.11: Inspection.

(1) Document Inspection. The Division may audit the accuracy of all information submitted pursuant to 225 CMR 14.00. The Division may request

and obtain from any Owner, Operator or authorized agent of a Qualified Renewable Generation Unit and any Retail Electricity Supplier information that the Division determines necessary to monitor compliance with and enforcement of 225 CMR 14.00.

(2) Audit and Site Inspection. Upon reasonable notice to a Retail Electricity Supplier or RPS Qualified Generation Unit Owner, Operator or authorized agent, the Division may conduct audits, which may include inspection and copying of records and/or site visits to an RPS Qualified Generation Unit or a Retail Electricity Supplier's facilities, including, but not limited to, all files and documents that the Division determines are related to compliance with 225 CMR 14.00.

14.12: Non-Compliance.

Any Retail Electricity Supplier or Owner, Operator or authorized agent of an RPS Qualified Generation Unit that fails to comply with the requirements of 225 CMR 14.00 shall be subject to the following provisions:

(1) Notice of Non-Compliance. A failure to comply with the requirements of 225 CMR 14.00 shall be determined by the Division. A written Notice of Non-Compliance shall be prepared and delivered by the Division to any Retail Electricity Supplier or Owner, Operator or authorized agent of an RPS Qualified Generation Unit that fails to comply with the requirements of 225 CMR 14.00. The Notice of Non-Compliance shall describe the Requirement(s) with which the Retail Electricity Supplier, Owner, Operator or authorized agent failed to comply and the time period of such non-compliance.

(2) Publication of Notice of Non-Compliance. A Notice of Non-Compliance may be published on the Division web-site and in any other media deemed appropriate by the Division. Such publication may remain posted until the Retail Electricity Supplier or Owner, Operator or authorized agent returns to compliance as determined by the Division.

(3) Planning Requirement. A Retail Electricity Supplier that fails to meet the requirements of 225 CMR 14.07 during a Compliance Year shall submit a plan for achieving compliance for the subsequent three years. The plan shall be filed with the Division no later than the first day of September of the Compliance Year subsequent to the Compliance Year for which the Retail Electricity Supplier was out of compliance.

(4) Suspension or Revocation of License. The Division shall refer its findings of non-compliance to the Department of Telecommunications and Energy. A Retail Electricity Supplier that fails to comply with 225 CMR 14.00 may be subject to the Department of Telecommunications and Energy Licensure Action(s) under 220 CMR 11.07 (4) (c) (1).

14.13: Severability.

If any provision of 225 CMR 14.00 is declared invalid, such invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application.